



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2011-0081]

In the Matter of

**SHAW AREVA MOX SERVICES, LLC
(Mixed Oxide Fuel Fabrication Facility)**

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**Docket No. 70-3098
Construction Authorization
No. CAMOX-001**

Order Approving Indirect Transfer of Control of Construction Authorization

I

Shaw AREVA MOX Services, LLC (MOX Services) holds Construction Authorization (CA) CAMOX-001 for construction of a Mixed Oxide (MOX) Fuel Fabrication Facility (MFFF) at the U.S. Department of Energy (DOE) Savannah River Site in Aiken, South Carolina.

II

By letter dated August 30, 2012, as supplemented by letters dated October 1, 2012, December 20, 2012, and January 16, 2013, and a purchase transaction agreement dated July 30, 2012 (together, the Transfer Application), MOX Services requested that the U.S. Nuclear Regulatory Commission (NRC) consent to the proposed indirect transfer of Construction Authorization (“CA”) CAMOX-001 that would be effected by the indirect transfer of control of Shaw Environmental & Infrastructure, Inc.’s (“Shaw E&I”) 30% interest, and Shaw Project Services Group, LLC’s (“SPSG”) 40% interest in MOX Services. The transfer will occur as a result of the purchase of Shaw E&I and SPSPG’s ultimate parent company, The Shaw Group Inc. (“Shaw”), by Chicago Bridge and Iron Company NV (“CB&I”), pursuant to a purchase transaction agreement. MOX Services would continue to hold the CA. Upon completion of the

transaction, Shaw will become a wholly owned subsidiary of CB&I. Shaw holds a 70% ownership interest in MOX Services through its subsidiaries, Shaw E&I and SPSG. In addition, DOE is requiring that a proxy agreement be established pursuant to the policies duly authorized under the National Industrial Security Program. The proxy agreement will give control of CB&I's interest in MOX Services to SPSG, as a proxy for CB&I, Shaw, and Shaw E&I, in order to insulate SPSG and MOX Services from any potential Foreign Ownership, Control or Influence (FOCI) in order to maintain the Facility Security Clearance held by MOX Services. No physical changes to the MFFF are being proposed.

Approval of the indirect transfer of the CA was requested pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA) (42 U.S.C. § 2234) and Section 70.36 of Title 10 of the *Code of Federal Regulations* (10 CFR). A notice of the request for approval and opportunity for a hearing or to submit written comments was published in the *Federal Register* on October 25, 2012 (77 FR 65208). No comments or requests for a hearing were received in response to this notice. The Federal Register notice was corrected on (January 30, 2013; 78 FR 6356) to fix a typographical error.

Pursuant to Section 184 of the AEA, no license granted under the AEA, and pursuant to 10 CFR 70.36, no license granted under 10 CFR part 70, shall be transferred, assigned, or in any manner disposed of, directly or indirectly, through transfer of control of any license to any person unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the AEA, and gives its consent in writing. The CA does not authorize MOX Services to use Special Nuclear Material at the MFFF; it only authorizes MOX Services to construct the MFFF. The CA is analogous to a construction permit, and it has served as the mechanism under which the NRC staff has overseen the MFFF construction activities. The Commission's regulations at 10 CFR 2.4, define "license" as including a construction permit. Therefore, the CA is analogous to a license and the requirements of Section 184 of the AEA and 10 CFR 70.36 are applicable to this action.

Upon review of the information received from MOX Services, and other information before the Commission, and relying upon the representations and agreements contained in the Transfer Application, the NRC staff finds that (1) it has secured full information regarding the proposed indirect transfer of control of CAMOX-001, and (2) the proposed indirect transfer, to the extent that CB&I will acquire a 70% ownership interest in MOX Services pursuant to its planned acquisition of Shaw, as described in the Transfer Application, and to the extent that CB&I, Shaw, Shaw E&I, SPSG, and MOX Services are in compliance with DOE FOCI requirements for maintenance of the MFFF DOE Facility Security Clearance, is in accordance with the provisions of the AEA of 1954, as amended.

The findings set forth above are supported by a Safety Evaluation (SE) dated January 30, 2013.

III

Accordingly, pursuant to Section 184 of the AEA Act of 1954, as amended and Section 70.36 of 10 CFR, IT IS HEREBY ORDERED that the indirect transfer of control of CAMOX-001, as described herein, is approved.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals of the proposed indirect transfer, MOX Services shall inform the Director of the Office of Nuclear Material Safety and Safeguards, in writing, of such receipt no later than one (1) business day prior to the closing of the proposed indirect transfer. Should the proposed indirect transfer not be completed within 60 days from the date of issuance of this Order, the Order shall become null and void; however, on written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the letter dated August 30, 2012, as

amended, (which can be found at Agencywide Documents Access and Management System [ADAMS] Accession Number ML12243A498). Publicly-available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC web site <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland this 31st day of January 2013.

FOR THE NUCLEAR REGULATORY COMMISSION

Catherine Haney, Director
Office of Nuclear Material Safety
and Safeguards

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